

### **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed June 22, 2009 (Paper No. 20090615). Upon entry of this response, claims 1-5, 7-8, and 27-41 are pending in the application. In this response, claims 1-5 and 7-8 have been amended. Claims 6 and 9-24 are cancelled without prejudice, waiver, or disclaimer and claims 27-41 have been added. Applicants reserve the right to pursue the subject matter of the cancelled claims in a continuing application, if Applicants so choose, and do not intend to dedicate any of the cancelled subject matter to the public. Applicants respectfully request that the amendments being filed herewith be entered and request reconsideration and allowance of all pending claims.

#### **I. Allowable Subject Matter**

Applicant acknowledges the Examiner's conclusions that the claims 4-7 would be allowable if rewritten in independent form, as noted on page 4 of the Office Action. Independent claim 1 is amended to include the limitations of dependent claim 6, such that claim 6 is now an independent claim including all of the limitations of its base claim. In addition, newly added independent claims 27 and 35 have been written to incorporate the allowable limitations of claims 4 and 5, respectively, and the limitations of common base claim 1. Thus, Applicants respectfully submit that claims 1, 27 and 35 are in condition for allowance.

#### **II. Claim Rejections under 35 U.S.C. §112, Second Paragraph**

Claims 2 and 8 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Office Action alleges on page 2 that:

in claim 2, it is not clear how said image would be able to measure the currently printed image, as well as, exactly what is measured.

In claim 8, it is not clear what "said control marks" are in relation to claim 1.

In response to the rejection, Applicants have amended claims 1, 2, and 8. In view of these amendments, Applicants believe that claims 2 and 8 define the invention in the manner required by 35 U.S.C. § 112. Accordingly Applicants respectfully request that the rejection be withdrawn.

### **III. Claim Rejections under 35 U.S.C. §102(b)**

Claims 1, 3, and 8 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by *Gibson et al.* (U.S. Patent No. 5,956,055, hereafter "*Gibson*"). As noted above, claim 1 has been amended to include the allowable limitations of dependent claim 6. Since amended claim 1 is allowable, Applicants submit that claims 3 and 8 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). In addition, while the Office Action indicates on page 1 that claim 2 is rejected, Applicants note that the Office Action does not explicitly point out how the cited art teaches the features of claim 2. Since amended claim 1 is allowable, Applicants submit that claim 2 is allowable for at least the reason that it depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants request that the rejection of claims 1-3 and 8 be withdrawn.

### **IV. Newly Added Claims**

New claims 27-41 are based on subject matter that is explicit and/or inherent within the description of the specification and/or the drawings. Applicants submit that no new matter has been added in the new claims 27-41, and that new claims 27-41 are allowable over the cited references. Furthermore, Applicants respectfully submit that claims 28-34 and 36-41, which depend either directly or indirectly from independent claims 27 and 35, respectively, are allowable for at least the reason that each depends from an allowable independent claim. *In re*

*Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Therefore, Applicants request the Examiner to enter and allow the above new claims.

### **CONCLUSION**

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 1-5, 7-8, and 27-41 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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